

MINUTES OF CLINTON TOWNSHIP PLANNING BOARD

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PUBLIC MEETING

JUNE 12, 2001

*PRESENT:* Jim Imbriaco, Pat Papa, Gerald Teeney, Chris D'Alleinne (late), Sue Dziamara, Marc Melloy, Tom Borkowski, Tom Kacedon, Bill Barr

Professionals: Melanie Reese, Engineer; Michael Bolan, Planner; Ken Mackiewicz, Traffic Engineer; Henry Reisen, Environmental Consultant; Jonathan Drill, Attorney; Alice Oldford, Secretary.

*ABSENT:* Dan Fennell

*CALL TO ORDER*

Mr. Imbriaco called the meeting to order at 7:35 p.m.

*PUBLIC NOTICE*

This is a public meeting of the Planning Board of the Township of Clinton, County of Hunterdon and State of New Jersey. Adequate notice of this meeting has been given in accordance with the Open Public Meetings Act in that an Annual Notice was published in the Hunterdon County Democrat on January 11, 2001, and the notice of and agenda for this meeting was posted on the bulletin boards in the vestibule of the Municipal Building and outside the Planning and Zoning Office on the 2<sup>nd</sup> Floor of the building and faxed to the Hunterdon County Democrat, the Express Times, the Courier News, the Hunterdon Review, the Star Ledger and the North County Branch of the Hunterdon County Library the Friday prior to the meeting.

*APPROVAL OF MINUTES*

Minutes from the meeting of 6/2/01 were approved

*RESOLUTIONS*

PACESETTER, Block 9, Lot 8.03

Final Subdivision

Motion was made by Pat Papa and seconded by Marc Melloy

Members in favor: Marc Melloy, Sue Dziamara, Pat Papa, Gerry Teeney, Jim Imbriaco

Members opposed: None

Members absent: Chris D'Alleinne and Dan Fennell

BEAVER BROOK Parcels 11, 12 and 13/16, Block 79.01, Lots 11 & 12 and  
Block 79.03, Lot 5

Completeness checklist waivers and completeness determination

Motion was made by Pat Papa and seconded by Marc Melloy

Members in favor: Marc Melloy, Sue Dziamara, Gerry Teeney, Pat Papa, Jim Imbriaco.

Members opposed: None

Members absent: Chris D'Alleinne and Dan Fennell

## PUBLIC HEARING

**DAVID PARISI**, Block 82.18, Lot 49 (R-3)

Applicant seeks preliminary subdivision approval to create 2 lots, including one new dwelling. New road and improvements are also proposed. This hearing is continued from March 19, 2001.

Melanie Reese and Ken Mackiewicz were sworn

Having paid the requisite application and escrow fees, Robert DeChellis, Esq., introduced himself on behalf of the applicant. Kevin Page, P.E., introduced himself. Mr. Page said he had been asked for NJDEP permits. He handed a copy to the Board. Page said NJDEP files were incomplete. In addition, Mr. Page insisted that he contacted original engineer, Najarian, and environmentalist, Amy Greene, who had no knowledge of the original plan. Mr. Page explained that although the LOI is expired, the applicant is willing to provide a new one. The Board confirmed that the LOI is not a completeness issue.

As to plotting the flood plain, Mr. Page said he had sought information from NJDEP as well as Najarian and had not been successful. However, he said he had plotted the floodway line. Mr. Page said from the floodway line to the conservation easement is 150' and 8' higher in elevation. Ms. Reese clarified the area to be included in the LOI.

Steven Gruenberg, Esq., attorney for the objectors asked whether the Page firm had provided the LOI to Mr. Reisen. According to Mr. Page, the LOI is expired. Further, Mr. Gruenberg questioned whether the wetlands delineation had been shown on the plans. Mr. Page said the delineation on the plans had been provided based upon the former LOI. Mr. Gruenberg questioned endangered habitat.

Mr. Page referenced the report of the traffic consultant for the applicant. Mr. DeChellis said he received the report on 6/11, and that time applicant's traffic engineer indicated he could not attend because of a conflict. DeChellis said traffic testimony would be important, and further, there are three traffic consultants who have provided calculations. He further referenced the location of the site triangle.

Mr. DeChellis requested a continuance, and the chairman declined. He said this matter had been opened on 3/19. Mr. Imbriaco said receiving the traffic report yesterday was shocking. Steven Gruenberg noted that the issues are not a surprise.

Jon Drill pointed out that the TRC report was dated 3/25. The objectors' up-dated report was dated 6/8. Applicant's traffic engineering report was dated 6/11. Jon Drill said with no witness available for cross-examination, the report could not be accepted as evidence. Additional correspondence has been received from Mr. DeChellis on 6/12 with response from Mr. Gruenberg of the same date. Mr. Drill confirmed that these are not new issues.

Mr. Page said he had not received the TRC report. He noted that he thought the incorrect standards had been applied. Mr. Page referenced the TRC letter, and Mr. Imbriaco indicated a significant time had elapsed and the issue is whether to proceed or adjourn to a future date.

Ms. Papa said she did not believe applicant had carried its burden to present its case.

The Board confirmed it wished to continue the hearing this evening. Applicant requested a recess.

Because its presentation is not complete, Mr. DeChellis said the applicant wishes to withdraw the application. On behalf of the objectors, Mr. Gruenberg indicated that significant resources had been invested. Further, he noted the Board and objectors had hired experts. Mr. Gruenberg noted that the Board has all the information. Mr. Drill referenced case law regarding withdrawal. He discussed the Board's options, namely, to allow withdrawal without prejudice, to deny withdrawal, or to withdraw and reimburse applicants' expenses. Mr. Imbriaco said applicant had not diligently prosecuted the case.

Chairman Imbriaco said his inclination is to deny the application for lack of providing the requisite information.

Motion was made by Pat Papa and seconded by Tom Borkowski not to allow applicant to withdraw the application.

Mr. Gruenberg said the objectors are prepared to present testimony. Mr. DeChellis said the applicant is not prepared to proceed.

The Board called Ken Mackiewicz. The TRC report of 3/26/01 was marked in evidence as B-1. Page submissions were marked: A-5 Page letter of 6/12, A-6 NJDEP letter of 5/4/92, A-7 NJDEP letter of 10/93, A-8 Notice of Authorization dated 10/1/93 by NJDEP, A-9 Stream Encroachment application, A-10 engineering report of NJDEP, A-11 Request for Fish and Game review with attached map.

Mr. Mackiewicz summarized his report of 3/26. He said the key element relates to the plan at the end of the report indicating that site triangle easements would be needed for Lots 49.08 and 49.09. Asked about the impact on the property owners, Mr. Mackiewicz said any plantings or structures could not be higher than 3 1/2' in height. Mr. Gruenberg contended that this is a self-created hardship. Asked whether the neighbor had been asked to give a site easement, Mr. DeChellis said there had been no contact.

Mr. DeChellis asked how far from the edge of pavement site distance calculations had been made, to which Mr. Mackiewicz responded that he used 20' as provided by AASHTO standards. He referenced Exhibit B-1.

Mr. Melloy asked to recuse because he knows a neighbor, who is one of the objectors.

A new motion to deny continuance of the meeting and to deny withdrawal was made by Pat Papa and seconded by Tom Kacedon.

Members in favor: Jim Imbriaco, Pat Papa, Gerald Teeney, Chris D'Alleinne, Sue Dziamara, Marc Melloy, Tom Borkowski, Tom Kacedon, Bill Barr

Mr. DeChellis posed additional questions to Mr. Mackiewicz related to the nature of the intersections, i.e., specifically the TRC application of standards for highway as opposed to rural intersections. Mr. DeChellis asked whether this is a rural intersection. Mr. Mackiewicz said he believed this is the correct application of the standards. Mr. Mackiewicz acknowledged that this is a local intersection. Mr. DeChellis noted that in this case the distance is 15' rather than the 20' applied by TRC. Mr. Mackiewicz confirmed that he believed that the 20' standard should apply. Mr. DeChellis referred to a chart showing the speed as 25 mph. Mr. Mackiewicz noted that the design speed would be 5 mph more than the posted speed. Mr. DeChellis shared a citation from RSIS. Mr. Mackiewicz said there would likely be less of an easement if 15' were applied rather than 20'.

Mr. Drill clarified two issues, i.e., sight easements and sight distance. Mr. Mackiewicz confirmed that design speed rather than posted speed should be utilized in the analysis. He noted this would be a more conservative approach. Mr. DeChellis asked about the differentiation between a lightly traveled or heavily traveled road. Mr. Mackiewicz conceded that this would be a lightly traveled road, and he confirmed that Southgate Drive could be classified as a local road.

Mr. DeChellis again questioned whether 15' or 20' would be an appropriate measurement. Mr. Mackiewicz contended 20' is the appropriate standard as provided by AASHTO. He referenced diagram 6-B, pointing out that the reference is to major highways. Mr. DeChellis asked whether applicant owns any portion of the shaded area, and Mr. Mackiewicz confirmed that the applicant owns no portion.

Asked whether there is anything to prevent a vehicle being parked in the site easement, Mr. Mackiewicz said it would go to the language of the easement. He confirmed that it typically refers to shrubbery and structures. Mr. DeChellis elicited confirmation that if a vehicle is parked in the sight easement, although it would obstruct the easement, it could not be controlled.

Mr. DeChellis referenced Exhibit A-2, B-6 as to the definition of the sight easement. Mr. Mackiewicz read the section. He confirmed that this would be applicable.

Asked whether anything exists on Lot 49.09 to obstruct the view to the north or south, Mr. Mackiewicz said there is nothing. Asked whether the site distance is currently unobstructed, Mr. Mackiewicz confirmed that this is true. Asked about other sight easements, Mr. Mackiewicz said he was not familiar with other sight easements related to Southgate. Asked about speed limits on Regional Road and Hamden Road, Mr. Mackiewicz said he did not know. Mr. DeChellis noted that in NJ the minimum speed limit in a residential area is 25 mph. Mr. DeChellis referenced site easements dedicated to the County related to Regional Road and Hamden Road.

Sight easements were marked A-12 dated 5/19/97 for lot 49 (Site 1), A-13 sight easement for lot 49 (Site 3), A-14 sight easement for lot 49 (Site 8). DeChellis asked Mackiewicz about the extent of the sight easement. He asked Mr. Mackiewicz to read the metes and bounds and asked whether course #1 say it goes 117' along Hamden Road. Mr. Gruenberg said Mr. DeChellis is attempting to show that the sight triangle easements are smaller than proposed in the current application. Referencing A-14, Mr. DeChellis asked Mr. Mackiewicz about the 5' distance. Mr. Mackiewicz confirmed that 117' was the longest distance.

Asked about the standards for approval applied in 1992, Mr. Mackiewicz said he did not know.

Mr. DeChellis posed additional questions, noting there is no crossroad but rather a right or left turn. Referring to the AASHTO manual, Mr. Gruenberg referred Mr. Mackiewicz to page 491. Referencing figure 6B, Mr. Gruenberg asked about the sight distance to be applied. Mr. Gruenberg noted that the objectors contend 375' sight easement would be required while Mackiewicz noted 300'. Mr. Gruenberg referred to a driveway on a corner lot (as described in Title 13, driveway ordinance).

Mr. DeChellis asked additional questions as to the stopping sight distance. Mr. Mackiewicz confirmed that the plan showed a 200' sight distance within the right-of-way.

Mr. Gruenberg said given Mr. Mackiewicz testimony, the objectors would not present any testimony. Mr. Drill said letters from the attorneys, DeChellis and Gruenberg, excluding Dean's and Holt's report, would be incorporated into the record.

Henry Reisen of Thonet Associates was asked whether he had received the information requested on 3/19. Mr. Reisen asked for the documentation from the original LOI. He said neither the information, nor the map was received although applicant did submit the expired LOI. Thonet Associates had also requested that the flood plain be plotted. Applicant did not provide it. Asked about approving the completeness of the EIS as submitted by the applicant, Reisen confirmed the findings and requests in the 2/7 Thonet letter. He noted some of the items, although not all, had been submitted by the applicant. There is no current LOI in place.

There was considerable debate and questioning as to the absence of the LOI. There was additional questioning as to the flood plain plotting.

Public hearing was closed.

Mr. Imbriaco noted that there is a question as to sight triangle easements that remains unresolved. In addition, the chairman noted that EIS requirements had not been satisfied, nor had applicant provided the revised plans requested in March. The Board members concurred with the chairman.

Mr. Drill confirmed that there are 2 issues, the first being whether there is adequate sight distance. Mr. DeChellis is requesting that the Board make a finding. The legal issue is whether sight triangle easements are required. Mr. Drill confirmed RSIS requires sight triangle easements.

Motion was made by Tom Kacedon and seconded by Chris D'Alleinne to direct counsel to prepare a resolution to deny.

Members in favor: Jim Imbriaco, Pat Papa, Gerald Teeney, Chris D'Alleinne, Sue Dziamara, Marc Melloy, Tom Borkowski, Tom Kacedon, Bill Barr

## PLANNING PRESENTATION

Design standards presentation was carried to 6/18.

## NEW BUSINESS

1. Ken Mackiewicz asked the Board to recuse should an Exxon application be submitted. TRC has a long history with Exxon. Mr. Drill suggested that under the Local Government Ethics Law, Ken Mackiewicz could not continue to represent the Board. Mr. Drill said the Board should ask Dan Bernstein to review the law.
2. Reports:
  - (a) Environmental – Sue Dziamara said the water testing went well. She also said CTEC had reviewed the preliminary NRI prepared by Princeton Hydro.

3. Mr. Teeney recommended approval of the vouchers for payment. The Board concurred.
4. As to the correspondence from GPU, Melanie Reese explained that GPU has changed its standards to comply with the Township's ordinance.
5. The Bike Committee is meeting on 6/14 to finalize the plans that are to be incorporated with the grant applications. Board members should email comments directly to RBA, the bike path consultant.

*ADJOURNMENT*

The meeting was adjourned at 10:30 p.m.

These minutes were approved 7/10/01.

Alice Oldford  
Secretary to the Board